

Docket: 71535



JRW
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Tustin et al.

Serial No.: 10/650,510

Group Art Unit: 1755

Filed: August 28, 2003

Examiner: Hailey, Patricia L.

For: FLUIDIZABLE CARBON CATALYSTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121

In Response to the Office Action mailed on September 14, 2005, further examination and reconsideration of the subject application are respectfully requested. Applicants wish to thank Examiner Hailey for her time in discussing the restriction requirement with Eric Middlemas by telephone on September 28, 2005.

The Office Action has required Applicants to elect one of nine groups of claims for examination. In a subsequent telephone conversation with Eric Middlemas, however, the Examiner agreed to combine Groups I and II (Claims 1-8) and Group IV (Claims 13-15) into Group I. In response to the restriction requirement, therefore, Applicants elect the claims of the new, combined Group I (Claims 1-8 and 13-15), drawn to a fluidizable catalyst and a process for the preparation of a fluidizable catalyst. Applicants' election, however, is made with traverse.

MPEP § 803 states that an application may be properly restricted to one or more claimed inventions only if (1) the inventions are independent or distinct as claimed, and (2) there is a serious burden on the Examiner if restriction is not required. Thus, even if appropriate reasons exist for requiring restriction, such a requirement should not be made unless there is an undue burden on the Examiner to examine all the claims in a single application. Here, it would appear that the searches involved for the claims would be coextensive. As such, it is not believed to be a serious burden on the Examiner to examine all the claims. Accordingly, for at least all of the reasons set forth above, withdrawal of the restriction requirement is requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited.

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Respectfully submitted,

Eric D. Middlemas

Eric D. Middlemas
Registration No. 53,325

September 29, 2005

Date

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

I hereby certify that this paper (along with any paper(s) referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Mary Harrison
Mary Harrison

September 29, 2005

Date